

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
CURTIS, : 20-cv-00824-PKC-LB
Plaintiff, :
- versus - : U.S. Courthouse
: Brooklyn, New York
:
GREENBERG, et al., : August 11, 2020
Defendants : 1:35 PM
-----X

TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Plaintiff: **Wilfred Robert Curtis, Esq.**
1190 Bedford Avenue,
Apt. 4B
Brooklyn, NY 11216

**For Defendant Larkin,
Larkin, Ingrassia &
Tepermayster, LLP:** **David Wilk, Esq.**
Rivkin Radler LLP
926 Rxr Plaza
Uniondale, NY 11556

**For Defendant Kelson,
Todd A. Kelson PC:** **Joseph L. Francoeur, Esq.**
Wilson Elser
150 East 42nd Street
New York, NY 10017

**For Defendant Mishael
Pine:** **Erin Anne O'Leary, Esq.**
Lewis Brisbois
77 Water Street
Ste 2100
New York, NY 10005

**For Defendant Berutti,
Weiner Law Group, LLP:** **Anthony J. Iaconis, Esq.**
Danielle Sullivan, Esq.
Diserio Martin O'Connor
& Castiglioni, LLP
One Atlantic Street
Stamford, CT 06901

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

APPEARANCES (Cont'd):

For Defendant Saltiel,
Wenig, Saltiel, LLP:

Jeffrey L. Saltiel, pro se
Howard S. Bonfield, Esq.
Wenig Saltiel LLP
26 Court Street
Suite 1200
Brooklyn, NY 11242

For Defendant Sheindlin
& Sheindlin Law Office:

Gregory Sheindlin, pro se
Sheindlin & Sullivan, LLP
350 Broadway
New York, NY 10013

For defendants Greenberg
Yeung & Wang:

Andrew Janof, Esq.
Winget, Spadafora &
Schwartzberg, LLP
45 Broadway
32nd Floor
New York, NY 10006

For Defendant Bassa:

Niloufer Bassa, pro se
1190 Bedford Avenue, Apt.# 2B
Brooklyn, NY 11216

Transcription Service:

Transcriptions Plus II, Inc.
61 Beatrice Avenue
West Islip, New York 11795
laferrara44@gmail.com

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1 THE CLERK: Civil Cause for a Telephone
2 conference, docket number 20-cv-824, Curtis v. Greenberg,
3 et al.

4 Will the parties please state your names for
5 the record.

6 MR. CURTIS: Robert Curtis, plaintiff.

7 MR. JANOF: This is Andrew Janof of the law
8 firm of Winget, Spadafora & Schwartzberg, on behalf of
9 the law office of Yeung & Wang, PLLC, and Teresa
10 Greenberg, Esquire.

11 MR. WILK: This is David Wilk with Rivkin
12 Radler for defendant William Larkin, and Larkin
13 Ingrassia, et al.

14 MR. FRANCOEUR: Good morning.

15 Joseph Francoeur from Wilson Elser on behalf of
16 the Kelson defendants.

17 MS. O'LEARY: Good morning, your Honor.

18 Erin O'Leary of Lewis Brisbois on behalf of
19 defendant Michelle Pine.

20 MR. IACONIS: This is --

21 MR. SALTIEL: Good morning.

22 Jeffrey Saltiel and Howard Bonfield on behalf
23 of Jeffrey Saltiel, and Wenig, Saltiel, and Saltiel, LLP.

24 MR. IACONIS: That was supposed to be me.

25 MR. SALTIEL: I'm sorry.

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1 MR. IACONIS: Anthony Iaconis and Danielle
2 Sullivan from Diserio Martin on behalf of Curtis -- I'm
3 sorry, Ronald Berutti and the Weiner Law Group.

4 MR. SHEINDLIN: Gregory Sheindlin on behalf of
5 myself, and the Sheindlin Law firm.

6 THE CLERK: Ms. Bassa?

7 MS. BASSA: This is pro se defendant Ms. Bassa.

8 THE CLERK: The Honorable Lois Bloom presiding.

9 THE COURT: Good morning, Mr. Curtis, Mr.
10 Janof, Mr. Wilk, Mr. [Fran-kara] -- I keep saying it
11 wrong. Please say it one more time for me.

12 MR. FRANCOEUR: It's [Frank-core], your Honor.
13 Thank you.

14 THE COURT: Mr. Francoeur, Ms. O'Leary, Mr.
15 Iaconis, and Ms. Sullivan, and I will note that Mr.
16 Saltiel cannot hold his place in line properly, Mr.
17 Bonfield and Saltiel, you jumped ahead of Mr. Iaconis --
18 no harm done but just wait your turn.

19 MR. SALTIEL: Guilty as charged.

20 THE COURT: Mr. Sheindlin and Ms. Bassa.

21 MR. SALTIEL: Guilty as charged. I'm sorry.

22 THE COURT: Yes, guilty as charged is right.

23 This is a telephone conference in plaintiff's
24 action alleging that six attorneys, together with a non-
25 attorney, participated in a conspiracy to take

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1 approximately \$7 million from plaintiff from
2 approximately 2016 through the present.

3 I last spoke to all of the parties at a
4 conference on June 25th. At that conference, I directed
5 plaintiff to file his amended complaint by July 27th.

6 Since that time, Mr. Janof has appeared for
7 Teresa Greenberg and the Law Office of Yeung & Wang, and
8 so now all defendants have appeared in this action.

9 I have presently before me one, two, three,
10 four, five, six -- seven pre-motion conference request
11 letters which Judge Chen has said that I can set the
12 deadlines for the motion. So that will be done today.

13 I, likewise, have a letter motion for Mr.
14 Curtis regarding a request to produce insurance policies.

15 Ms. Bassa, I want whatever schedule is entered
16 today on behalf of all of the defendants who have written
17 to the Court, I want you to observe the same schedule,
18 Ms. Bassa, and --

19 MS. BASSA: Okay.

20 THE COURT: -- you are not held to put it in
21 strict legalese, but again, since they are moving to
22 dismiss, you should join in their motions, and you should
23 put in papers on your own behalf.

24 Do your best --

25 MS. BASSA: How do I do that? How do I do

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1 that?

2 THE COURT: You do it in writing, and you send
3 it to --

4 MS. BASSA: Okay.

5 THE COURT: -- the court by the date that we
6 set. That's all.

7 MS. BASSA: And can I do that by email to the
8 clerk's office?

9 THE COURT: The clerk's office, to that pro se
10 address that we've given you?

11 MS. BASSA: Yes, yes.

12 THE COURT: Yes.

13 MS. BASSA: Yes.

14 THE COURT: Yes.

15 MS. BASSA: Oh, thank you very, very much.

16 Thank you.

17 THE COURT: Okay.

18 MS. BASSA: Thank you.

19 THE COURT: So again, Ms. Bassa, all of the
20 defendants who are represented by counsel have asked to
21 move to dismiss the amended complaint. And Mr. Curtis
22 did acknowledge that you were served with two different
23 versions of the amended complaint, but from whatever his
24 letter said as confusing as it was, it seems to say that
25 it doesn't really matter which one you respond to, but I

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1 will tell you that his amended complaint is filed at ECF
2 52 on the docket. Mr. Curtis --

3 MS. BASSA: Okay, I found it -- I just found
4 all of this bewildering, so I'm just going to follow with
5 whatever -- I couldn't make heads or tails of it. It was
6 all just a bit all over the place. So I'm just going to
7 move to dismiss like everybody else.

8 THE COURT: That's correct. You're entitled to
9 do that. Okay?

10 MS. BASSA: Thank you. Thank you.

11 THE COURT: Okay. So look, Mr. Curtis, you did
12 write a nice --

13 MS. BASSA: Can I just say something else? I
14 also did not receive anything by mail, as you instructed
15 him strictly to do.

16 THE COURT: Well again, I'm never going to make
17 it so that you and Mr. Curtis get along, since you're
18 living in the same --

19 MS. BASSA: We don't, yeah.

20 THE COURT: -- building, I think it's almost
21 better that you just deal through the Court.

22 MS. BASSA: Right, exactly.

23 THE COURT: So as long as you have it, let's
24 not make it any more difficult here.

25 MS. BASSA: Okay.

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1 THE COURT: As long as you have it, the
2 amended --

3 MS. BASSA: Yeah, I don't want to deal with
4 him. Yes, I just don't want to deal with him.

5 THE COURT: -- and you can work from it, let's
6 just go from there, okay?

7 MS. BASSA: Okay. Thank you very much. I
8 appreciate it.

9 THE COURT: Sure.

10 MS. BASSA: Thank you.

11 THE COURT: Okay. So for the Janof -- Mr.
12 Janof, for the Greenberg and Yeung defendants, you were
13 asking for time to make a motion to dismiss.

14 MR. JANOF: Correct.

15 THE COURT: Have you spoken to Mr. Wilk, Mr.
16 Francoeur, Ms. O'Leary, Mr. Iaconis, Mr. Bonfield, Mr.
17 Sheindlin, about a schedule?

18 MR. JANOF: I have not.

19 THE COURT: Okay. So look, my purpose here
20 today is to get everybody on the same schedule. Mr.
21 Curtis, that will make your life easier. It will make
22 the defendant's lives easier, and it will certainly make
23 Judge Chen's life easier. And we don't need life to be
24 made more difficult.

25 The lawsuit, you're entitled to proceed, but

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1 just as you're entitled to bring a lawsuit, they're
2 entitled to defend against the lawsuit. Let me say to
3 all of the defendants, remember, on a motion to dismiss,
4 you have to stay within the four corners of the
5 pleadings, but because Mr. Curtis has attached so many
6 documents to his complaint, those are within the four
7 corners of the pleadings.

8 Does everybody understand what the Court is
9 saying here?

10 MS. BASSA: Yes, I do.

11 UNIDENTIFIED SPEAKER: Yes.

12 MR. JANOF: Yes, your Honor.

13 THE COURT: In other words, you are supposed to
14 attach your own affidavits or affirmations which will
15 raise factual matters. You're supposed to work from what
16 the complaint is. That's what a motion to dismiss does.

17 If it's under 12(c), a motion on the pleadings,
18 sometimes you can move beyond the four corners, but if
19 it's a 12(b)(6) motion, you are within the four corners
20 of the pleadings.

21 Mr. Janof, you understand what I'm saying

22 MR. JANOF: Yes, your Honor.

23 THE COURT: Mr. Wilk, you understand?

24 MR. WILK: Yes, your Honor.

25 THE COURT: Mr. Francoeur?

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1 MR. FRANCOEUR: Yes, your Honor.

2 THE COURT: Ms. O'Leary.

3 MS. O'LEARY: Yes, your Honor.

4 THE COURT: Mr. Iaconis or Ms. Sullivan?

5 MR. IACONIS: We do. Yes, your Honor.

6 THE COURT: Mr. Bonfield?

7 MR. BONFIELD: Yes, your Honor. Yes, your
8 Honor.

9 MR. SHEINDLIN: Yes, your Honor.

10 THE COURT: The reason why I'm doing it in this
11 fashion is because I don't want different people to start
12 adding their own exhibits, and their own declarations.
13 Then you're converting it to a motion for summary
14 judgment under Rule 56, and even though plaintiff is an
15 attorney, I am just alerting you that there is a special
16 notice required when a plaintiff is pro se, and it's 12.1
17 of the Local Rules, and it's 56.2 of the Local Rules.

18 Now again, since Mr. Curtis is representing
19 himself, but he's a lawyer, generally, the Court does not
20 give his pleadings the liberal construction that are
21 afforded to a pro se litigant. But since the local rules
22 talk about someone being pro se, and do not differentiate
23 between a lawyer and a nonlawyer, I'm alerting you to
24 these rules, because I do think that it's for you to
25 decide whether you give him the special notice under

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1 12.1. Okay?

2 So Mr. Curtis, every defendant has stated that
3 they intend to move to dismiss your amended complaint,
4 sir. Do you understand that?

5 MR. CURTIS: I do, your Honor.

6 THE COURT: And so my purpose today is to set a
7 schedule that will meet everybody's needs including
8 yours, because once they oppose -- once they file their
9 motion, you are entitled to oppose the motion, and then
10 only on the day that the reply is due, will the fully-
11 briefed motion be filed.

12 Do you understand what I just said, Mr. Curtis?

13 MR. CURTIS: I do, your Honor.

14 THE COURT: So in other words, I am staying any
15 response to the amended complaint, and setting a schedule
16 for the defendants to move, and the motion will be made
17 on the same day, so you'll receive everybody's motion
18 papers, they'll serve it on you, and if you can agree to
19 accept it by email, that would probably make everybody's
20 life easier, and then on a date certain, you'll have to
21 oppose that motion, and again, you'll serve that on
22 everybody on the same date.

23 and if you want to, Mr. Curtis, you can make it
24 into one document. You don't have to repeat for Mr.
25 Janof's clients, what you're going to say, (audio

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1 interference) the same for Mr. Francoeur's client.

2 So if you want one consolidated opposition of
3 all of the defendants' motions, you can do that, or you
4 can file individual oppositions but again, sir, in
5 reading just your letter motion to produce the policy
6 regarding CNA, you make things quite confusing for
7 yourself, and for others.

8 So I would say it's probably a better idea if
9 you try to do one consolidated opposition, and you break
10 it down by each of the different defendants, and you
11 address each of their motion in one consolidated
12 document.

13 Do you understand, Mr. Curtis?

14 MR. CURTIS: I do, your Honor.

15 THE COURT: Okay. And then there will be one
16 date for everybody to reply, and on that reply date,
17 everybody is going to file their parts of the motion.
18 I'm going to ask somebody --

19 Well, Ms. Bassa, if you could do yours through
20 the pro se email address.

21 MS. BASSA: Okay, thank you. I will do that,
22 your Honor.

23 THE COURT: Okay. Everybody has turn on their
24 mute when they're not speaking. Somebody has a very loud
25 background noise. Thank you.

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1 Okay. Who wants to be heard on what the
2 schedule should be for the motion to dismiss, that all
3 defendants are going to have to abide by, of course it
4 would've made my life easier if the defendants' attorney
5 could've spoken before this conference, but in lieu of
6 that, we'll discuss this now.

7 Who wants to be heard? Everybody wants me just
8 to set the schedule? Okay. Nobody wants me --

9 MS. BASSA: Yes, please.

10 THE COURT: Okay. Nobody wants to be heard on
11 this. That's a first. I would imagine that because this
12 is a 100-and -- I think it's 110-page document plus
13 exhibits that you would want until September to make your
14 motions, is that correct?

15 UNIDENTIFIED SPEAKER: Yes.

16 UNIDENTIFIED SPEAKER: Yes, your Honor.

17 MS. O'LEARY: Yes, your Honor. This is --

18 UNIDENTIFIED SPEAKER: That's fair, your Honor.

19 THE COURT: Ms. O'Leary, you wanted to be
20 heard?

21 MS. O'LEARY: Yes, good morning, your Honor.
22 Erin O'Leary for defendant Michelle Pine.

23 Just given the scope of the complaint, and the
24 work that's going to go into the motion to dismiss, I
25 would just request, if we're talking September dates, the

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1 absolute latest in September, and preferably, if we could
2 get 45 days, like the beginning of October, that would be
3 my --

4 THE COURT: Is there any opposition --

5 MS. O'LEARY: -- request to file the motion to
6 dismiss.

7 THE COURT: -- to giving the parties until
8 early October. Mr. Curtis, do you oppose that?

9 MR. CURTIS: I do not, your Honor.

10 THE COURT: Okay. So why don't we say October
11 5th, which is a Monday, 10/5. Does anybody from the
12 defendants need to be heard or is that date acceptable to
13 all defendants? Mr. Janof?

14 MR. JANOF: That's acceptable, your Honor.

15 THE COURT: Mr. Wilk?

16 MR. WILK: That's acceptable, your Honor.

17 THE COURT: Mr. Francoeur?

18 MR. FRANCOEUR: That's acceptable, your Honor.

19 THE COURT: Ms. O'Leary, I'm giving you what
20 you asked for, so hopefully it's acceptable to you.

21 MS. O'LEARY: It is, thank you.

22 THE COURT: Mr. Iaconis and Ms. Sullivan?

23 MR. WILK: Yes, thank you, your Honor.

24 THE COURT: Mr. Bonfield and Mr. Saltiel?

25 MR. JANOF: It's acceptable.

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1 THE COURT: Mr. Sheindlin?

2 MR. SHEINDLIN: Acceptable. Thank you.

3 THE COURT: And Ms. Bassa, you're going to move
4 by that same date, okay?

5 MS. BASSA: Yes, I am. Thank you, your Honor.

6 THE COURT: Okay. So now Mr. Curtis, how long
7 from October 5th when you're going to be served with
8 this, it's not going to be filed on that day, it's going
9 to be served on you, and if you give them all the
10 approval, they will serve it on you by email. If you
11 don't give them approval, then it's going to have to come
12 by regular mail.

13 What is your druthers, sir?

14 MR. CURTIS: I can be served by email.

15 THE COURT: Okay. So everybody has been given
16 permission to serve Mr. Curtis at his email address. Mr.
17 Curtis, do they all have your proper email address, sir?

18 MR. CURTIS: I believe they do.

19 THE COURT: Is it on the docket, sir?

20 MR. CURTIS: Yes.

21 THE COURT: So everybody can serve Mr. Curtis
22 at Robert.Curtis1943@gmail.com. Is that correct, Mr.
23 Curtis?

24 MR. CURTIS: Yes, your Honor.

25 THE COURT: Very good. Okay. So I imagine you

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1 would like the same amount of time, Mr. Curtis.

2 MR. CURTIS: I would.

3 THE COURT: So about 45 days?

4 MR. CURTIS: Yes.

5 THE COURT: Okay. So 45 days, would put us to
6 November 16th. Will that work for you?

7 MR. CURTIS: Yes.

8 THE COURT: So November 16th will be the date
9 for opposition papers, and again, I would like everybody
10 to approve that he gets to serve by email. Mr. Janof,
11 can he serve you by email with his opposition papers?

12 MR. JANOF: Yes, your Honor.

13 THE COURT: Mr. Wilk?

14 MR. WILK: Yes, your Honor.

15 THE COURT: Mr. Francoeur?

16 MR. FRANCOEUR: Yes, your Honor.

17 THE COURT: Ms. O'Leary?

18 MS. O'LEARY: Yes, your Honor.

19 THE COURT: Mr. Iaconis and Ms. Sullivan?

20 MR. IACONIS: Yes, of course, your Honor.

21 THE COURT: Mr. Bonfield and Mr. Saltiel?

22 MR. SALTIEL: Yes, your Honor.

23 THE COURT: Mr. [Shin-lin] -- Sheindlin, sorry.

24 MR. SHEINDLIN: That's fine. Yes, your Honor.

25 THE COURT: And Ms. Bassa, can he serve you by

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1 email?

2 MS. BASSA: Yes, that's fine. Thank you.

3 THE COURT: Okay. So everybody is on board.
4 Opposition by 11/16.

5 Now reply. I would imagine that everybody needs
6 two weeks after the opposition or three weeks, to then
7 file the fully-briefed motion. Does that sound
8 acceptable?

9 I'll go to you, Ms. O'Leary, would three weeks
10 from November 16th be acceptable for filing the fully-
11 briefed motion?

12 MS. O'LEARY: Yes, your Honor.

13 THE COURT: That puts us to December 7th.
14 12/7/20, the fully-briefed motion will be filed. That
15 means that any reply papers, and that means that your
16 opposition, and your motion will all be filed on the same
17 day. So again, all of the defendants; attorneys will be
18 in charge of filing their portion of the motion, and Mr.
19 Curtis, you will in charge of filing your opposition to
20 the motion, and they will file their reply, all on that
21 same day, December 7th, 2020.

22 Do you understand that, Mr. Curtis?

23 MR. CURTIS: Yes, your Honor.

24 THE COURT: So before that day, everybody is
25 just exchanging their papers, but on 12/7, and Ms. Bassa,

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1 your papers on 12/7 will be filed at that pro se address.

2 MS. BASSA: Can I do it before that date, or it
3 has to be specifically on that date?

4 THE COURT: Well again, their motion is not
5 going to be filed before that date. So if you're filing
6 your opposition before that date, it's not going to be
7 read with the other papers. So to the best of your --

8 MS. BASSA: I see.

9 THE COURT: -- it should be filed on that date.
10 Do you understand, Ms. Bassa?

11 MS. BASSA: Yes, so December 7th?

12 THE COURT: Yes, but --

13 MS. BASSA: 12/7.

14 THE COURT: -- you have to serve your
15 opposition -- I'm sorry, you have to serve your motion,
16 whatever it is going to be, you have to serve it on Mr.
17 Curtis by October 5th.

18 MS. BASSA: I see, and that's the motion to
19 dismiss; is that right?

20 THE COURT: That's correct.

21 MS. BASSA: Okay.

22 THE COURT: So all that you make sure of is
23 this, you make sure that it's captioned for this case, so
24 the docket number and Curtis v. Greenberg with 20-cv-824,
25 you should write in the caption, that this is defendant

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1 Bassa's motion to dismiss the amended complaint, and then
2 list whatever your reasons are, okay? And sign it.

3 MS. BASSA: Okay.

4 THE COURT: And send it to --

5 MS. BASSA: Thank you.

6 THE COURT: -- (audio interference) by email,
7 but keep a copy for yourself, send it to him by email, on
8 October 5th.

9 MS. BASSA: Okay.

10 THE COURT: And file it with the Court on
11 December 7th.

12 MS. BASSA: Okay. I will do it that.

13 THE COURT: And if his papers, his opposition
14 papers, say things about you that you want to respond to,
15 you can add that to whatever you file with the Court, so
16 that when you file on 12/7/20, you'll give whatever
17 motion to dismiss was that you served on him October 5th,
18 plus any reply, and again, it should say defendant
19 Bassa's reply. Okay, Ms. Bassa?

20 MS. BASSA: Yeah, it's -- it's very confusing.
21 I'm -- I'm sorry, I'm just not up to, you know, snuff
22 (indiscernible) --

23 THE COURT: Well, again, it isn't all that
24 confusing, and I really am taking this time to try to
25 help you, that you're going to do a motion to dismiss --

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1 MS. BASSA: Yeah, I appreciate that.

2 THE COURT: -- on October 5th, and you're going
3 to send that to his email address, keeping a copy for
4 yourself. You will not file it with the Court until
5 December 7th.

6 MS. BASSA: I see, okay.

7 THE COURT: And if you have anything you want
8 to add on December 7th, you may do so, and then on
9 December 7th, you're going to file both what you served
10 on him October 5th, plus any reply you may have. So
11 again, both of those can be sent to the pro se address.

12 MS. BASSA: Okay, great. Thanks very much.
13 Thank you.

14 THE COURT: But keep copies for your own
15 records, okay?

16 MS. BASSA: Yeah, I'll have it in my email.
17 Thank you.

18 THE COURT: Okay, very good.

19 All right, so that takes care of the ECF's 53,
20 54, 55, 57, 58, 59 and 60. We're granting the pre-motion
21 conference request. We're setting the schedule today.

22 Does anybody want to be heard on Mr. Curtis'
23 motion to produce the policy, something to do with CNA as
24 the carrier for Bushman (ph.)? Does anybody want to be
25 heard on that motion?

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1 MS. O'LEARY: Yes, your Honor. This is Erin
2 O'Leary for defendant Pine.

3 Mr. Curtis sent me an email making this inquiry
4 about who was retained by CNA, because he foresees that
5 there may be a conflict because of the Bushman matter. I
6 responded by email saying that I did not know what the
7 Bushman matter was, and he responded to say that it had
8 something to do with one of the defendants who failed to
9 prosecute that case.

10 However, that does not give me any information
11 as to what Bushman is, and how it relates to this claim,
12 or my representation of Ms. Pine. So I cannot even, at
13 this point, advise -- evaluate whether there's a
14 potential conflict.

15 So I would request that Mr. Curtis before your
16 Honor advises, what the issue is in the Bushman matter.
17 I don't know what that means, and what conflicts he
18 perceives exists.

19 THE COURT: Mr. Curtis, do you want to
20 respond?

21 MR. CURTIS: Could she repeat that again, your
22 Honor? She'd like advice as to what?

23 THE COURT: No, she doesn't want advice, sir.

24 MS. O'LEARY: I know --

25 THE COURT: She said that she has no idea what

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1 the Bushman matter is, so you making this claim that
2 there's a potential conflict, these attorneys can't even
3 evaluate that claim because they're not parties to the
4 Bushman matter, so they have no idea what you're talking
5 about.

6 MR. CURTIS: All right. Your Honor, I will
7 provide that information.

8 THE COURT: No, no, ,no, this is your chance,
9 sir. You want to tell them what it is that you perceive
10 is a conflict? Because otherwise, I'm not requiring them
11 to do discovery when there is a motion to dismiss that
12 has just been scheduled, Mr. Curtis. That's not the way
13 it works in federal court.

14 I'm going to stay all discovery pending the
15 adjudication of the motion to dismiss, and should the
16 motion to dismiss be denied, then I will schedule
17 discovery, and you'll be able to do whatever discovery
18 you believe is necessary, subject to the limitations set
19 by the Federal Rules, and any rulings of the Court.

20 But right now, I'm not going direct them to
21 turn over policies, which is what your motion was asking
22 for.

23 MR. CURTIS: Yes.

24 THE COURT: But if you want your chance to give
25 a better explanation of what you were trying to raise,

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1 I'm giving you that opportunity now.

2 MR. CURTIS: Well, your Honor, as I see it,
3 that was a part of what put my firm out of business.

4 THE COURT: I don't know what that means, sir.
5 You're trying to say that there's a conflict of interest
6 because of a case that Ms. O'Leary just put on the
7 record, she has no idea what that case is or what you're
8 referring to. Did you provide a docket number? Did you
9 provide which court it was in? I didn't see any of that
10 information in your letter.

11 Mr. Curtis?

12 MR. CURTIS: Yes, I'm here, your Honor.

13 THE COURT: Again, I'm not trying to give you a
14 hard time, but if you're making a motion to the Court,
15 and you're saying that there is a conflict, and you're
16 serving this on all these defendants, but you're not
17 prepared to give them more information, then your motion
18 is denied. Plain and simple. There's no way for anybody
19 to determine whether there's any potential conflict here.

20 MR. CURTIS: Your Honor, I'll just have to come
21 back to it at a different time.

22 THE COURT: Well, I do want you to understand
23 that I am staying all discovery. I am not saying that
24 they have to respond and again, I've given you a chance
25 on the record, to try to tell me what it is that you are

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1 trying to get at here, but your motion to produce
2 policies is simply not sufficient for the Court to order
3 anybody to turn over anything.

4 Quite simply, you don't give any docket number,
5 you don't give any case, you just say the Bushman action,
6 and so for the reasons set forth on the record today,
7 your motion at document 61 is denied.

8 Okay. I am going to stay discovery and stay
9 any response to the amended complaint, pending the
10 schedule that I am putting into effect today. So again,
11 I'm going to repeat the schedule.

12 By October 5th, 2020, all defendants, including
13 pro se defendant, Ms. Bassa, will make their motion to
14 dismiss by serving a copy on Mr. Curtis.

15 By November 16th, Mr. Curtis will oppose the
16 motion.

17 And on December 7th, 2020, both Mr. Curtis and
18 all of the defendants will file their portion of the
19 motion. So the defendants who are moving will file the
20 motion to dismiss, and any reply. Mr. Curtis will file
21 his opposition.

22 Is there anything else today, Mr. Curtis, that
23 needs to be addressed?

24 MR. CURTIS: No, no, and thank you very much,
25 your Honor.

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1 THE COURT: Thank you, sir.

2 Anything further, Mr. Janof, on behalf of the
3 Greenberg and Yeung defendants?

4 MR. JANOF: No, thank you, your Honor.

5 THE COURT: Mr. Wilk, anything else on behalf
6 of the Larkin defendants?

7 MR. WILK: Just a point of clarification, your
8 Honor, the -- earlier you indicated that the complaint
9 had exhibits, and I think the direction was that we could
10 address the complaint with the exhibits in our motion, is
11 that correct, and nothing else?

12 THE COURT: Again, if you look at Second
13 Circuit case law, there is a plethora of cases that say
14 if there are exhibits attached, they're incorporated by
15 reference.

16 MR. WILK: That's what I thought.

17 THE COURT: So that's why --

18 MR. WILK: Okay. I just wanted --

19 THE COURT: As long as they were attached to
20 his complaint, they are incorporated by reference, and
21 are part of the four corners of those pleadings.

22 MR. WILK: Thank you.

23 THE COURT: That doesn't necessarily mean that
24 they can be accepted for the truth of what they say.
25 Some of the documents may have other reasons why they

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1 raise issues, but I'm just saying for purposes of a
2 pleading, if somebody attaches exhibits, they can be
3 considered on a motion to dismiss.

4 MR. WILK: Thank you, your Honor.

5 THE COURT: Mr. Francoeur, is there anything
6 else on behalf of the Kelson defendants?

7 MR. FRANCOEUR: No, your Honor. Thank you.

8 THE COURT: Ms. O'Leary, anything further on
9 behalf of defendant Pine?

10 MS. O'LEARY: No, your Honor.

11 THE COURT: Mr. Iaconis, or Ms. Sullivan,
12 anything further on behalf of the defendants you
13 represent?

14 MS. SULLIVAN: Yes, your Honor, this is Ms.
15 Sullivan.

16 We mentioned in our pre-motion letter that we
17 also intend on filing a Rule 11 motion for sanctions. We
18 would just like the Court's guidance on a schedule for
19 that, and we would like -- if you would like us to mirror
20 that, the motion to dismiss schedule for our Rule 11
21 motion schedule.

22 THE COURT: Have you given him his safe harbor
23 period to withdraw the complaint?

24 MS. SULLIVAN: Yes, we filed a letter -- we
25 sent him a letter, I think we mentioned the date in our

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1 pre-motion letter, but yes, we did.

2 THE COURT: Well, as long as that date that you
3 gave him has come and gone, and he has come and gone
4 again, you know, again, refused to withdraw, then any
5 Rule 11 should be incorporated into your motion to
6 dismiss, and Mr. Curtis, you should deal with their Rule
7 11 motion, as you deal with the motion to dismiss.

8 And if you're wanting to reconsider your
9 position, regarding whether or not you will withdraw, you
10 can speak to Mr. Iaconis or Ms. Sullivan about that.
11 Otherwise, all motions will be on the same schedule.

12 MS. SULLIVAN: Thank you, your Honor.

13 THE COURT: Anything further, Ms. Sullivan?

14 MS. SULLIVAN: No, your Honor. Thank you.

15 THE COURT: Mr. Bonfield or Mr. Saltiel?

16 MR. SALTIEL: Nothing further, thank you.

17 THE COURT: Mr. Sheindlin, anything further?

18 MR. SHEINDLIN: Nothing further. Thank you,
19 Judge.

20 THE COURT: Ms. Bassa, anything further?

21 MS. BASSA: No, nothing further. Thank you
22 very much.

23 THE COURT: Ms. Bassa, there is still a number
24 that you can call the court, the pro se office if you
25 needed some instructions.

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1 MS. BASSA: Yes, please. Yes, please.

2 THE COURT: You need that number?

3 MS. BASSA: Yes, yes, I do, please.

4 THE COURT: That number is 718 --

5 MS. BASSA: Yes.

6 THE COURT: -- 613 --

7 MS. BASSA: Yes.

8 THE COURT: -- 2665. That is the --

9 MS. BASSA: Okay.

10 THE COURT: -- pro see office of the
11 courthouse, and if there is nobody picking up, they will
12 be returning phone calls. So if you leave a phone number
13 -- and they do have instructions on how to oppose a
14 motion, but they're the same as those that are listed in
15 the handbook I had them send to you.

16 MS. BASSA: Okay. Yes.

17 THE COURT: Did you finally receive that
18 handbook?

19 MS. BASSA: Yes, I -- I did. I did. I did
20 receive it (indiscernible).

21 THE COURT: Okay. So there are instructions in
22 that handbook on how to oppose a motion, or how to make a
23 motion.

24 MS. BASSA: Okay.

25 THE COURT: And you should be looking at how to

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1 make a motion.

2 MS. BASSA: Okay.

3 THE COURT: And the rule that you're looking at
4 is Rule 12 of the Federal Rules of Civil Procedure.

5 MS. BASSA: Okay.

6 THE COURT: Okay.

7 MS. BASSA: (Indiscernible).

8 THE COURT: So I will set a schedule --

9 MS. BASSA: Thank you very much again.

10 THE COURT: You're very welcome.

11 I will set the schedule as set forth on the
12 record, and that deals with each of the individual
13 defendants' pre-motion conference request, and again, if
14 there is any need to change this schedule, you must
15 contact the other side to ask -- excuse me -- to ask for
16 consent.

17 So please, Mr. Curtis, Mr. Janof, Mr. Wilk, Mr.
18 Francoeur, Ms. O'Leary, Mr. Iaconis, Ms. Sullivan, Mr.
19 Bonfield, Mr. Saltiel, Mr. Sheindlin, and Ms. Bassa,
20 please try to stick to the schedule. This will make
21 everybody's life a lot easier.

22 I am staying all discovery. There will be no
23 discovery that needs to be responded to until the motion
24 has been adjudicated. The fully-briefed motion will be
25 filed with the Court by December 7th, 2020.

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1 With that, I wish you all continued good
2 health. This matter is adjourned. Thank you very much.

3 IN UNISON: Thank you, your Honor.

4 (Matter Concluded)

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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 13th day of August, 2020.


Linda Ferrara

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